

REMARKS

Claims 10-15 and 16-28 were previously pending. Claims 1-9 and 16 were previously cancelled. The pending claims are now claims 10-15 and 17-28. Independent claims 10 and 20 are amended herein.

Obviousness Rejections Under 35 USC 103

The Office action of March 31, 2010 rejected claims 10-28 as obvious over the Goel reference (Publication Number 2008/0052185) in view of Mesaros (US Patent No. 7,181,419) and in further view of McBrayer et al. (US Patent No. 7,499,871).

The Goel Reference

In Applicant's response filed on November 9, 2009, it was noted that Goel was published several years after the present patent application was filed, and that the parents/grandparents of which Goel is the child disclose significantly less than the cited Goel application. A response to the arguments below concerning Goel is respectfully requested:

Concerning Goel, the following dates are of interest:

Filing Date of Present Application: Jan. 15, 2004

Filing Date of Goel: Aug. 17, 2007

Publication Date of Goel: Feb. 28, 2008

It is respectfully submitted that the Goel reference, having been published over four (4) years after the filing date of the present application, is not art to which one of skill in the art could have turned at the time of the present invention.

The Goel reference claims priority (as a continuation-in-part) of several earlier applications, filed in 2004 (now US Patent No. 7,418,409), 2006 and 2007.

Considering the '409 patent, it has only Figs. 1-22, compared to the Figs. 1-105 of the 2008 Goel '185 reference that is cited in the Office Action. The '409 patent focuses on a method of questioning potential airline passengers about their preferences, to then offer them incentives that are consistent with the airline's goals. See, for example, Col. 9, ll. 11-13, "[T]he Customer Engine 230 administers a questionnaire or survey which is designed to elicit information useful in constructing options to offer..." After collecting data, the software of the '409 patent then uses a numerical optimization technique to maximize the airlines profit while meeting the constraints set by the customer. (See, *e.g.*, Col. 9, ll. 35-40).

This is nothing like what is claimed in the pending claims. The '409 patent does not disclose a method having, for example, target release dates, actual release dates or advance orders. Nor does the provisional application from which the '409 patent claims priority disclose any such elements (as the provisional application, Serial No. 60/514,248, is even shorter and less detailed than the '409 patent).

In summary, it is respectfully submitted that the Goel '185 publication is not a proper reference because it was filed several years after the filing date of the present application. Furthermore, none of the applications from which the '185 publication claims priority are proper references under 35 U.S.C. 103, either, as they are much less detailed than the '185 publication and do not disclose important claim elements.

If reliance on the Goel reference is maintained, it is respectfully requested that the foregoing priority issues with Goel be addressed, as it is not understood how new matter from Goel '185, added long after the filing date of Applicant's present application, can be the basis of an obviousness rejection.

The Mesaros Reference

Considering now the second reference – Mesaros, US Patent No. 7,181,419 – Mesaros discloses virtual "deal rooms" that take into account buyer profiles in order to

customize price schedules. However, Mesaros does not teach or suggest the features as claimed.

The Office Action specifically cites Mesaros as follows, on page 3 of the Office Action:

Mesaros suggests that the computer readable medium having transmitting to an interface of the specially programmed computer the target release date and a target number of advance orders (See Mesaros, Col. 22, lines 17-67 to Col. 23, line 44); receiving a number of advance orders from a plurality of advance purchasers (see Mesaros, Col. 22, lines 17-67 to Col. 23, line 44); transforming the target release date into an actually release date when the number of received advance orders from advance purchasers equals the target number of advance orders (See Mesaros, Col. 29, lines 36-67).

Limitations that the Office Action says are in the Mesaros reference are examined separately:

1. "Mesaros suggests that the computer readable medium having transmitting to an interface of the specially programmed computer the target release date and a target number of advance orders (See Mesaros, Col. 22, lines 17-67 to Col. 23, line 44)(emphasis added)"

Mesaros, Col. 22, lines 17-67 to Col. 23, line 44 relates to "information relating to special offers to buyers" (ll. 17-18). This passage is concerned with "the cost to service customers can vary according to a variety of factors, such as when an order is placed." (ll. 21-22). Col. 22, lines 32-67 are concerned with changing the prices (via "price curves," Fig. 16 and 17) depending when orders are placed. Col. 23, ll. 1-33 relate to providing discounts and price points. Col. 23, ll. 35-43 relate to buying "futures" of a product that the supplier can "buy back."

None of the passages in Mesaros to which the Office Action points relate to a target release date or a target number of advance orders. If the Examiner disagrees, quotation of the specific phrases in Mesaros making the disclosure is requested, as Applicant's careful reading of the passages finds the material for which the reference is cited.

2. Mesaros suggests "transforming the target release date into an actual release date when the number of received advance orders from advance purchasers equals the target number of advance orders (See Mesaros, Col. 29, lines 36-67)."

This passage of Mesaros does not mention target release dates or actual release dates. It is concerned with marketing to certain groups of people (col. 29, ll. 35-50) and altering the price curve as orders on offers are placed (Co. 29, ll. 50 et seq.). There is no mention of what appears in the present claims, as amended, which relate *inter alia* to the release date of a product or service being set or revised depending on the number of advance orders received.

On careful reading of Mesaros, the reference does not in fact relate to a target release date and a target number of advance orders, nor does it relate to "transforming the target release date into an actual release date when the number of received advance orders from advance purchasers equals the target number of advance orders."

If the Examiner disagrees, quotation of the specific phrases in Mesaros making the disclosure is requested, as Applicant's careful reading of the passages finds the material for which the reference is cited.

Consequently, withdrawal of the obviousness rejections, in which Mesaros is prominently cited, is respectfully requested.

The McBrayer Reference

The McBrayer reference is cited on page 4 of the Office Action because, as the Office Action states: "McBrayer suggests that wherein the method of dynamic release

date further includes offering incentives to potential purchasers to submit advance orders (See McBrayer, Figs. 4-6; Col. 6, lines 56-67)."

Upon review, Applicant does not find any reference to offering incentives to potential purchasers in any of Figs. 4-6 or Col. 6, lines 56-67 of McBreyer. Figs. 4-6 do not appear to illustrate providing an incentive. Fig. 6 does refer to an "Award" 360. However, the Specification at Col. 7, ll. 42-45 indicates: "The buyer may select the 'award' button 360 to award the purchase order to a supplier that has met the buyer's and company's selection criteria." Hence, the "Award" 360 is not an award to the purchaser, but is the purchaser awarding a purchase to a particular supplier.

The specification at Col. 6, ll. 56-67 discusses tabs that, for example, a buyer can use to track a purchase order, scheduled dates, quantity requested, and the like. But in this section that the Office Action cites, Applicant finds nothing about offering an incentive to a purchaser to place an order earlier than a target date.

For this further reason, reconsideration and withdrawal of the obviousness rejection is respectfully requested.

Conclusion

Reconsideration and withdrawal of the rejections and allowance of the claims is respectfully requested. If the Examiner needs to speak with the undersigned, his direct telephone number is 310-242-2731.

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It is believed that no additional fee is required for the filing of this Amendment, however, if a fee is in fact due the Commissioner is authorized to charge any fees or costs to our Deposit Account No. 06-2425.

Respectfully submitted,

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